

AGREEMENT BETWEEN
the City of Lincoln, Nebraska ("City") and the Havelock Business Association,
("HBA") with a place of business at 6120 Havelock Avenue, P. O. Box 29561, Lincoln,
Nebraska 68529 for the construction of a sign in the southeast corner of the intersection of
Superior Street, Cornhusker Highway and Havelock Avenue located within the Lincoln,
Lancaster County, Nebraska.

RECITALS

WHEREAS the City of Lincoln owns a sign directing attention to the Havelock Business District in the southeast corner of the intersection of Superior Street and Cornhusker Highway in Lincoln, Nebraska; and

WHEREAS the sign is obsolete and the City wishes to sell the sign and have it removed from its present location; and

WHEREAS the City has identified the Havelock Business District as a center for economic and community revitalization within the City of Lincoln; and

WHEREAS the City declares that economic and community revitalization of the Havelock Business District serves a public purpose; and

WHEREAS the City finds that reconstruction of a new sign promoting and directing travelers to the Havelock Business District in the area of the existing sign serves a public purpose; and

WHEREAS the Havelock Business Association has represented to the City that it wishes to construct a sign and assume the responsibility for managing and maintaining said sign promoting and directing travelers to the area at the same location where the City's sign currently exists near the intersection of Cornhusker Highway, Superior Street, and Havelock Avenue;

NOW THEREFORE, the City and HBA enter into this Agreement for the purpose of replacing the existing sign at the location previously described under the terms and conditions found herein:

1. In consideration of the commitments of HBA contained in this Agreement and in order to support the reconstruction of the sign, the City agrees, to the extent allowed by law and then only to the extent that funds are lawfully available from the program income

previously collected by the City through its Urban Development Department, to make a grant to HBA in an amount not to exceed **One Hundred Thirty Thousand and No/100 Dollars (\$130,000.00)** for removal of an existing sign and construction of a new sign promoting and directing travelers to the Havelock Business District at the intersection of Superior Street, Cornhusker Highway, and Havelock Avenue in the City of Lincoln, Nebraska. Only those costs for demolition of the existing sign and construction of a new sign incurred after the date of this Agreement shall be eligible for payment from these funds.

2. HBA agrees to remove the existing "Havelock Business District" sign and to construct a new sign on the site of the existing sign. Construction of the new sign shall be completed no later than one year after execution of this Agreement.
3. HBA agrees that it will use plans already prepared on behalf of and approved by the City (hereinafter "Design Documents") for the sign that is to be constructed pursuant to this Agreement. HBA acknowledges that the City's approval of said plans is only related to the conceptual drawings of the sign. Such approval is supplemental to and not in lieu of the building permit review process. The previous approval by the City of the plans is not a substitute for and does not eliminate the requirement that HBA apply for and receive any necessary permits, specifically including a building permit and a sign permit, for construction of the sign. The Design Documents for the sign are attached hereto as Exhibit and are incorporated herein by this reference. After approval, HBA shall submit any material changes in the Design Documents for review and approval as

provided above.

4. HBA agrees to indemnify and hold City harmless to the extent of any payments in connection with carrying out reconstruction of the sign the City may be required to make for failure of HBA to pay all amounts lawfully due to all persons, firms, or organizations who performed labor or furnished materials, equipment, or supplies used in construction of the sign. This section survives any termination of this Agreement.
5. To the fullest extent permitted by law, HBA shall indemnify, defend, and hold harmless the City, its officers, agents, and employees from and against claims, damages, losses, and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of this Agreement, that results in any claim for damage whatsoever, including without limitation, any bodily injury, sickness, disease, death, any injury to or destruction of tangible or intangible property, including any loss of use resulting therefrom that is caused in whole or in part by the intentional or negligent act or omission of HBA or anyone for whose acts any of them may be liable. This section will not require HBA to hold harmless the City for any losses, claims, damages, and expenses arising out of or resulting from the sole negligence of the City. The City does not waive its governmental immunity by entering into this Agreement and fully retains all immunities and defenses provided by law. This section survives any termination of this Agreement.
6. HBA shall manage any and all advertising displayed on the sign for the useful life of the sign subject to the following restrictions:
 - A) All commercial advertisers must be members of the Havelock Business

Association in order to post advertising on the sign; and

- B) No advertising on the sign shall promote tobacco products or alcoholic liquor or beverages.
7. HBA, its assigns and successors shall, following construction of the sign, operate the sign in a safe and sanitary manner and shall take all action necessary to maintain, in good order, condition, and state of repair, all interior and exterior portions of the sign including the routine preventive maintenance of the sign and its service facilities including, but not limited to, the wiring, display, lighting, and support structures of said sign.
8. HBA shall be responsible for all components of the sign, including construction management, coordination of contractors, and regulatory permitting and other requirements. Selection of a contractor to construct the sign shall be done in accordance with the City of Lincoln Executive Order construction process.
9. To the extent allowed by law and then only to the extent the proceeds made available by this Agreement are lawfully available and granted to HBA as described in Paragraph 1 above, HBA shall use said funds to remove the existing sign and construct a new sign through the City's executive order construction process. The City shall not have any obligations to fund the construction of the sign or to make grants to HBA in excess of the available funds as provided within this Agreement. HBA shall use its own funds to fund any construction of the sign to the extent that the costs of construction exceed the funds made available by this Agreement. To the extent required by law, contracts for construction of the sign shall be bid in accordance with City procedures.

10. HBA will use commercially reasonable efforts to complete the reconstruction of the sign within one year following City Council's approval and the Mayor's execution of this Agreement.
11. HBA will not, for a period of fifteen (15) years after the effective date of this Agreement convey the sign to any entity. In the event, however, that HBA decides to sell the sign within a period of fifteen (15) years after the effective date of this Agreement, the City shall hold a right of first refusal whereby HBA shall provide the City with written notice of its intention to sell the sign and the City shall have thirty (30) days from the date said notice is received to purchase the sign before offers from any other entity may be considered by HBA.
12. During the construction period, HBA agrees to keep the construction area, including completed operations, insured against loss or damage by fire and other such risks, casualties, and hazards as are customarily covered by builders' risk or extended coverage policies in an amount not less than the replacement value of the sign. In the event of any insured damage or destruction, HBA agrees to restore the sign to its prior condition within six (6) months from the date of the damage or destruction, and shall diligently pursue the same to completion. In the event HBA fails to restore the sign for any reason, HBA shall pay to the City any proceeds received by HBA from its insurance provider related to the damage to the sign. HBA shall maintain property insurance on an extended coverage all-risk basis in an amount not less than the replacement value of the sign, allowing for reasonable coinsurance clauses and deductibles and also subject to HBA's

obligation to restore the sign to its prior condition within six (6) months from the date of the damage or destruction, diligently pursuing the same to completion.

13. HBA shall maintain General Liability Insurance at its own expense during the life of this Agreement, naming and protecting HBA and the City of Lincoln, its officials, employees, and volunteers as insured, against claims for damages resulting from (a) all acts or omissions, (b) bodily injury, including wrongful death, (c) personal injury liability, and (d) property damage which may arise from operations under this Agreement whether such operations by HBA and HBA's employees, or those directly or indirectly employed by HBA. The minimum acceptable limits of liability to be provided by such insurance shall be as follows:

1. All Acts or Omissions - \$1,000,000 each Occurrence and \$2,000,000 Aggregate; and
2. Bodily Injury/Property Damage - \$1,000,000 each occurrence and \$2,000,000 Aggregate; and
3. Personal Injury Damage - \$1,000,000 each Occurrence; and
4. Contractual Liability - \$1,000,000; and
5. Products Liability and Completed Operations - \$1,000,000 each Occurrence and \$2,000,000 aggregate; and
6. Medical Expenses (any one person) - \$10,000; and
7. Fire Damage (any one fire) - \$100,000

In addition, the following shall be provided and attached to this Agreement by HBA:

1. A certificate of insurance for its General Liability Insurance. The City of Lincoln shall be specifically named as an additional insured on the General Liability Insurance.

2. Proof of Workers' Compensation Insurance, where appropriate.

Finally, HBA is required to provide the City with thirty (30) days notice of cancellation, non-renewal, or any material reduction of insurance as required by this Agreement in addition to requiring the insurance provider to place an endorsement on the policy requiring the insurance provider for thirty days advance notice of any cancellation, non-renewal, or material reduction of insurance

14. HBA represents and agrees that its undertakings, pursuant to this Agreement, have been, are, and will be, for the sole purpose of reconstructing a sign to promote and direct travelers to the Havelock Business Area.
15. HBA agrees to repay the City the grant of funds provided for in Paragraph 1 above in the event HBA fails to substantially complete the construction of the sign as provided in Paragraph 2 and, upon such repayment of the grant funds, this Agreement shall be null and void in regards to HBA.
16. In the event HBA fails to maintain the sign as provided in Paragraph 6 above, then the City shall be allowed to, in its sole discretion, go upon HBA's property and make necessary repairs to the sign so as to return the sign to good and working condition. HBA shall reimburse the City for all costs incurred by the City in making said repairs.
17. HBA represents and agrees that prior to completion of the sign to be constructed pursuant

to this Agreement, there shall be no sale or transfer of the sign or the property interest in the land supporting the sign held by HBA or assignment of HBA's rights or obligations under this Agreement to any party without the prior written approval of the City, which shall not be unreasonably withheld, conditioned, or delayed. The City shall be entitled to require, as conditions to any required approval, that:

- A. Any proposed transferee shall have the qualifications and financial responsibility, as determined by the City, necessary and adequate to fulfill the obligations undertaken in this Agreement by HBA; and
 - B. Any proposed transferee, by instrument satisfactory to the City and in a form recordable in the Office of the Register of Deeds, shall for itself and its successors and assigns and for the benefit of the City, have expressly assumed all of the obligations of HBA under this Agreement; and
 - C. There shall be submitted to the City for review, not less than ten (10) days prior to the proposed execution thereof, all instruments and other legal documents involved in the transfer or described in this Agreement; and if disapproved by the City, its disapproval and the reasons therefore shall be indicated to HBA in writing.
18. HBA represents and warrants to City as follows:
- A. Havelock Business Association is a non-profit corporation duly organized and validly existing in good standing under the laws of the State of Nebraska. HBA is qualified to do business in the State of Nebraska and has all requisite power and

authority to own and operate its properties and carry on its business as now being conducted and to enter into this Agreement and perform the obligations hereunder.

B. This Agreement has been duly executed and delivered by HBA and constitutes a legal, valid, and binding obligation of HBA, enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, or other laws affecting the enforcement of creditors' rights generally, or by judicial discretion in connection with the application of equitable remedies.

C. The execution, delivery, and performance of this Agreement by HBA has been duly authorized by all necessary action by HBA and except as provided in this Agreement will not require the consent, waiver, approval, license, or authorization of any person or public authority, and will not violate any provision of law applicable to HBA, and will not violate any instrument, agreement, order, judgment, decree, statute, regulation, or any other restriction of any kind to which HBA is a party.

19. City represents and warrants to HBA as follows:

A. This Agreement has been duly executed and delivered by the City and constitutes a legal, valid, and binding obligation of the City, enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, or other laws affecting the enforcement of creditors' rights

generally, or by judicial discretion in connection with the application of equitable remedies.

- B. The execution, delivery, and performance of this Agreement by City have been duly authorized by all necessary actions by the City and except as provided in this Agreement will not require the consent, waiver, approval, license, or authorization of any person or public authority, and will not violate any provision of law applicable to the City, and will not violate any instrument, agreement, order, judgment, decree, statute, regulation, or any other restriction of any kind to which the City is a party.
20. Except as otherwise provided in this Agreement, in the event of any default in performance of this Agreement by the City or HBA, the party in default shall, upon written notice from the other, proceed immediately to cure or remedy such default within thirty (30) days after receipt of notice. However, if the default cannot, in the exercise of reasonable diligence, be cured within thirty (30) days, then the defaulting party shall commence efforts to cure and shall diligently continue to cure the default. If the default is not cured, the non-defaulting party may institute any proceedings which may be necessary to cure and remedy the default.
21. The parties shall have the right to institute actions or proceedings as they may deem necessary to enforce this Agreement. Any delay in instituting any action or otherwise asserting rights under this Agreement shall not operate as a waiver of rights or limit rights

in any way.

22. The parties or their successors or assigns shall not be in default of their obligations for delay in performance due to causes beyond their control and without their fault, including but not limited to acts of God, acts of the public enemy, acts of the federal or state government or subdivisions thereof, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, shortages of labor or materials, or delays of contractors or subcontractors due to such causes. The purpose and intent of this section is that in the event of the occurrence of any such delay, the time for performance of the obligations of either party with respect to construction of improvements shall be extended for the period of delay. However, in order to obtain the benefit of the provisions of this section, the party seeking the benefit shall within twenty (20) days after the beginning of the delay of performance notify the other party in writing of the cause and the reasonably expected length of the delay.
23. The rights and remedies of the parties to this Agreement shall be cumulative and the exercise by either party of any one or more remedies shall not preclude the exercise by it of any other remedies for any other default or breach by the other party. A waiver of any right of either party conferred by this Agreement shall be effective only if in writing and only to the extent specified in writing.
24. A notice under this Agreement by a party to the other party shall be deemed delivered on the date it is postmarked, sent postage prepaid, certified or registered mail, or delivered personally to HBA, Glen D. Witte, Registered Agent, 6120 Havelock Avenue, Lincoln,

Nebraska 68507 with a copy to Havelock Business Association, P. O. Box 29561, Lincoln, Nebraska 68529; and to the City at Mayor's Office 555 South 10th Street, Lincoln, Nebraska 68508 with a copy to the City Attorney's Office, 555 South 10th Street, Lincoln, Nebraska 68508 and the Director of Urban Development, 555 South 10th Street, Lincoln, Nebraska 68508 or at such address with respect to either party as that party may from time to time designate in writing and notify the other as provided in this section.

25. During construction of the sign, HBA shall permit the representatives of the City to enter all areas where the sign is being constructed at any and all reasonable times, as the City may deem necessary, for the purposes of inspection of work being performed in connection with construction of the sign pursuant to this Agreement.
26. Invalidation of any provision of this Agreement by judgment or court order shall not affect any other provisions which shall remain in full force and effect. This Agreement shall be construed and governed by the laws of the State of Nebraska.
27. Pursuant to Section 11.08.160 of the Lincoln Municipal Code and Neb. Rev. Stat. §48-1122 (Reissue 2010), HBA, its successor, and assigns agree that during the performance of this Agreement, it will not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment because of race, religion, sex, color, national origin, ancestry, disability, age, or marital status. HBA further agrees to require that its contractor and subcontractors shall agree to conform to said requirements.
28. HBA shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code

and shall make available to a contract auditor, as defined therein, copies of all financial and performance related records and materials germane to this Agreement, as allowed by law. The City shall cooperate and make available to HBA or its agents copies of all financial and performance related records and materials germane to the Project Account and the grant proceeds provided per this Agreement.


29. In accordance with Neb. Rev. Stat. 4-108 through 4-114, HBA agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. HBA shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A. 1324b. HBA shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to www.uscis.gov/everify.
30. To the extent that compensation for services provided pursuant to this Agreement is equal to or greater than \$25,000, this Agreement is subject to the Living Wage Ordinance of the Lincoln Municipal Code Chapter 2.81. The Ordinance requires that, unless specific

exemptions apply or a waiver is granted, the Service Provider shall provide payment of a minimum living wage to employees providing services pursuant to this Agreement.

Under the provisions of the Lincoln Living Wage Ordinance, the City shall have the authority to terminate this Agreement and to seek other remedies for violations of this ordinance.

31. The undersigned person representing HBA does hereby agree and represent that he or she is legally capable to sign this Agreement on behalf of the Havelock Business Association and to lawfully bind said organization to this Agreement.

IN WITNESS WHEREOF, the Havelock Business Association and City do hereby execute this Agreement.



Roger Pletcher
President, Havelock Business Association
6028 Havelock Avenue
Lincoln, Nebraska 68507

Date

12/18/12

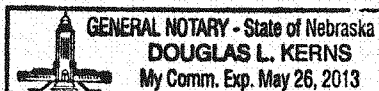
Chris Beutler
Mayor of Lincoln
555 South 10th Street
Lincoln, Nebraska 68508

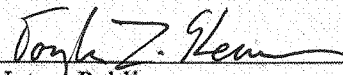
Attest

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 18 day of December, 2012 by Roger Pletcher, President of the Havelock Business Association, on behalf of the Havelock Business Association.

(SEAL)





Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, _____
by Chris Beutler, Mayor of the City of Lincoln, Nebraska, a municipal corporation, on behalf of
the municipal corporation.

(SEAL)

Notary Public



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/18/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER All American Insurance, Inc. P.O. Box 29319 Lincoln NE 68529	CONTACT NAME: Holli Pretzer AIS PHONE (A/C No. Ext): (402) 467-5355 FAX (A/C No): (402) 467-5422 E-MAIL ADDRESS: holli@allamericanins.com
INSURED HAVELOCK BUSINESS ASSOCIATION PO BOX 29561 LINCOLN NE 68529-0561	INSURER(S) AFFORDING COVERAGE INSURER A: Nationwide Mutual Insurance 23787 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES

CERTIFICATE NUMBER: 2012-2013 Liability

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY						EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X		ACP7260048771	11/30/2012	11/30/2013	MED EXP (Any one person) \$ 5,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY \$ 1,000,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC						GENERAL AGGREGATE \$ 2,000,000
	AUTOMOBILE LIABILITY						PRODUCTS - COMP/OP AGG \$ 2,000,000
	ANY AUTO						
	ALL OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$
	HIRED AUTOS						BODILY INJURY (Per person) \$
	SCHEDULED AUTOS						BODILY INJURY (Per accident) \$
	NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB						
	EXCESS LIAB						EACH OCCURRENCE \$
	DED						AGGREGATE \$
	RETENTION \$						
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATUTORY LIMITS
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N					OTHER
	If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Certificate holder listed as Additional Insured under General Liability policy per terms of CG2013 attached. Policy will provide City of Lincoln with 30 days advanced notice of cancellation, non-renewal, or any material reduction of insurance as required by agreement.

CERTIFICATE HOLDER

CANCELLATION

City of Lincoln
555 South 10th St.
Lincoln, NE 68508

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

H Pretzer AIS/HPRETZ

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – STATE
OR GOVERNMENTAL AGENCY OR SUBDIVISION
OR POLITICAL SUBDIVISION – PERMITS
OR AUTHORIZATIONS RELATING TO PREMISES**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

State Or Governmental Agency Or Subdivision Or Political Subdivision:

CITY OF LINCOLN - LINCOLN, NE.

LINCOLN, NE

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Section II – Who Is An Insured is amended to include as an insured any state or governmental agency or subdivision or political subdivision shown in the Schedule, subject to the following additional provision:

This insurance applies only with respect to the following hazards for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization in connection with premises you own, rent or control and to which this insurance applies:

1. The existence, maintenance, repair, construction, erection or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners or decorations and similar exposures; or
2. The construction, erection or removal of elevators; or
3. The ownership, maintenance or use of any elevators covered by this insurance.

All terms and conditions of this policy apply unless modified by this endorsement.